

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

February 11, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 07MD-129

Maui

Cancellation of Revocable Permit Number S-6103 and Re-Issuance of a New Revocable Permit to William F. Jacintho (Father) and William G. Jacintho (Son), Portion of Hamoa & Haneoo, Hana, Maui Tax Map Key: (2) 1-4-007:009 & 017.

APPLICANT:

William F. Jacintho, Husband of Shirley R. Jacintho, and William G. Jacintho Husband of Anne Jacintho, tenancy to be held as Joint Tenants.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Haneoo, Hana, Maui situated at identified by Tax Map Key: (2) 1-4-007:009 and 017, as shown on the attached map labeled Exhibit (A) and (B).

AREA:

(2) 1-4-007:009 - 27.86 total acres, excluding on the seaward side of Haneoo Road 2.5 acres, more or less

(2) 1-4-007:017 - .041 acres more or less

Total combined acres: 25.077 acres more or less

ZONING:

State Land Use District: Agriculture District

County of Maui CZO: Interim - Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ___ NO X

CURRENT USE STATUS:

Parcel 9 15.951 acres is currently encumbered Revocable Permit No. S-6103 issued to Mr. William Jacintho (father) for pasture purposes. A portion of this parcel is also encumbered by an access and utility easement (LOD S-28679) issued to Hana Beachfront Associates.

Parcel 17 Currently unencumbered and has no disposition at this time.

CHARACTER OF USE:

Pasture purposes.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

To be determined by staff appraiser, subject to review and approval by the Chairperson.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing.

DCCA VERIFICATION:

Applicant is not operating a business and, as such, is not required to register with DCCA.

REMARKS:

Revocable Permit No. 947 was issued to Mr. John Medeiros for pasture purposes commencing December 1, 1953. Monthly rent was \$21.00

In 1956, due to the construction of roads and the installation of a water system within the Hamoa Beach Lots Subdivision, Revocable Permit No. 947 had to be cancelled and Mr. Medeiros was issued a new revocable permit. Revocable Permit No. 1801 commenced on April 1, 1957. Monthly rent was \$21.00

The Land Board at its meeting of May 25, 1973, under agenda Item F-1-b, authorized the issuance of a revocable permit to Mr. William Eby for pasture purposes. Mr. Medeiros had requested Revocable Permit No. 1801 be terminated. Revocable Permit No. S-4954 commenced on June 1, 1973. Monthly rent was \$21.00

The Land Board at its meeting of February 24, 1984, under agenda Item F-1-a, authorized the cancellation of Revocable Permit No. S-4934 issued to Mr. William Eby and authorized the issuance of a revocable permit to William f. Jacintho for pasture purposes. Mr. Eby no longer needs the State parcel and requested his revocable permit be terminated. Mr. Jacinto plans to use the State property for grazing of a few heads of cattle which he raises for home consumption. Revocable Permit No. S-6103 commenced on March 1, 1984. Monthly rent was \$23.00

Tax map key: (2) 1-4-007:017 is situated towards the center portion of Parcel 9 and borders two private properties along its northeast boundary. This parcel is approximately .041 acres in size and has no legal access. Due to its size, location and lack of access, it would be best utilized as part of Mr. William F. Jacintho and Mr. William G. Jacintho's request for pasture use. It would be in the best interest of the State for the Jacintho's to incorporate this small, sliver of State property into their cattle operation.

Grazing of cattle and horses in agriculture zoned lands are allowed under the County of Maui's ordinance.

William F. Jacintho and William G. Jacintho have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Mr. William F. Jacintho has managed cattle successfully for fifty-one years. Since 1984, as a

State tenant, he has successfully raised cattle and is a good steward of the State property. Mr. William G. Jacintho has assisted his father with pasturing animals from his early childhood and continues to do so through today. The Jacinthos' have met the required qualifications under Section 171-14.5, Hawaii Revised Statutes with their lengthy years of experience as a cattle ranchers and animal husbandry.

Per a letter dated December 17, 2003, from Maui County Vice Chair Robert Carrol, the subject area at one time was proposed to be a State initiated subdivision but later abandoned due to its location within a flood plain.

The Maui District Land Office does have one application on file for the use of a ten (10) acre portion of Parcel 9 for maintenance and pasture purposes. The application was submitted by Mr. Edward C. Cashman on November 30, 1998. This application does not indicate that Mr. Cashman has any experience with the management of livestock or pasturing of animals. We can conclude only that Mr. Cashman would not meet the minimum qualifications as a bona fide rancher pursuant to Section 171-14.5, Hawaii Revised Statutes.

Mr. William F. Jacintho has indicated that he would like to exclude the portion of approximately 2.5 acres from parcel 009, situate on the seaward (makai) side of Haneo Road due to his inability to properly fence and pasture any animals at that location. Historically, this area has provided access to the public for use of the very popular Koki Beach. Maui Land Division has determined that it would not be in the best interest of the applicant to fence in this portion of parcel 009 to exclude the public's use of the area. Therefore, it is better to issue the new permit for the areas as depicted in the attached topographical photo labeled Exhibit (B).

Comment were solicited from the following agencies:

Agency	Comments
Natural Resource Conservation Service	No objections
Department of Health	No response
Department of Hawaiian Home Lands	No comment
DLNR – Division of Forestry & Wildlife	No comment or objections
DLNR – Historic Preservation	No response
Commission on Water Resource Management	No comment or objections
DLNR – Office of Conservation & Coastal Lands	No comment
County of Maui – Public Works	No comment or objections
Office of Hawaiian Affairs	No comment

County of Maui - Water Department	No comment
County of Maui - Planning	No objections
Corps of Engineers	No comment

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the cancellation of Revocable Permit No. S-6103.
3. Authorize the issuance of a revocable permit to William F. Jacintho (father) and William G. Jacintho (son) covering the subject area for pasture purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
 - d. The Permittee shall maintain stock proof fence around the entire premises (less the 2.5 acres).

Respectfully Submitted,



Larry Pacheco
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



[illegible]



EXHIBIT (B)